Supreme Court, U. S.
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MICHAEL RODAK, JR., CLERK

IN THE

SUPREME COURT OF THE UNITED STATES

October Term, 1977

No. **77-1692**

EDWARD RONWIN, Petitioner,

v.

THE SUPREME COURT OF
THE STATE OF ARIZONA,
Respondent.

PETITION FOR A WRIT OF CERTIORARI TO THE SUPREME COURT OF THE STATE OF ARIZONA

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IN THE

SUPREME COURT OF THE UNITED STATES

October Term, 1977

No.

EDWARD RONWIN, Petitioner,

v.

THE SUPREME COURT OF
THE STATE OF ARIZONA,
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PETITION FOR A WRIT OF CERTIORARI TO
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STATE OF ARIZONA

The Petitioner, Edward Ronwin, respectfully prays that a Writ of Certiorari issue to review the Judgment of the Supreme Court of the State of Arizona entered in this matter on November 15, 1977 which became final by said Court's Order entered March 9, 1978.

OPINION BELOW

The Judgment of November 15, 1977 is in the form of an Order whose text is reproduced in the Appendix (A-1).

JURISDICTION

The Judgment of the Supreme Court of Arizona was entered on November 15, 1977, (A-1). Subsequently, Petitioner's Petition for Rehearing was denied by Order of March 9, 1978, (A-9).

This Court's jurisdiction is invoked under Title 28, U.S.C. § 1257(3).

QUESTION PRESENTED

Are the criteria by which Respondent determines mental ability to practice law inconsistent with Petitioner's right to due process, equal protection of the law and to freedom of expression under the First, Fifth and Fourteenth Amendments to the United States Constitution?

STATUTES INVOLVED

The First, Fifth and Fourteenth Amendments to the United States Constitution (A-10). Vol. 17A, Ariz. Rev. Stat., Rules 28(c)III.7,(A-11) and Rule 28(c)IV. 3,(A-11).

STATEMENT OF THE CASE

On October 10, 1977, Petitioner filed an application for admission to the State Bar of Arizona. By agreement with the Committee on Character and Fitness of the Supreme Court of Arizona, said application was in the form of an affidavit bringing current the required data since Petitioner's previous application. Three previous applications have been denied on the grounds that Petitioner is "not mentally able" to practice law, Application of Ronwin, 113 Ariz. 357, 555 P.2d 315 (1976). The Committee declined to act on the application and requested in-

structions from the Chief Justice of Arizona.

Without prior notice or an opportunity to be heard and to confront adverse witnesses and evidence, Respondent denied Petitioner's application by its Order of November 15, 1977 (A-1). Furthermore, said Order erects a special procedure for future applications by Petitioner. Petitioner was granted additional time to file a Motion for Rehearing and did timely file said Motion on December 19, 1977.

In the meantime, an Order of the Iowa Supreme Court which declared Petitioner mentally capable of continuing as an active, practicing lawyer in Iowa, Appendix (A-4) first came to Petitioner's notice on December 5, 1977. The Iowa Order was incorporated into Petitioner's Motion for Rehearing which advanced two themes: (1) that Respondent's Order of November

15, 1977 denies Petitioner due process and equal protection of the law; and (2) that the Iowa Supreme Court's Order was equivalent to a showing of a "substantial change." On January 4, 1978, Respondent granted oral argument but not rehearing. On February 1, 1978, Petitioner moved Respondent for an Order Directing Issuance of Subpoenas In Aid of Discovery. Respondent denied said Motion on February 8, 1978. Oral argument was had on March 9, 1978. No Bar representative spoke in opposition or was present. Respondent denied Petitioner's Motion for Rehearing on March 9, 1978, without comment (A-9).

REASONS FOR GRANTING THE WRIT

The importance of the question presented is best considered with the elements of the controversy in the background.

The Iowa Supreme Court and the Arizona Supreme Court each arrived at their respective Orders (A-1;A-4), after having before them the same record of their own and the other Court's proceedings and filed materials. This consisted, inter alia, of the testimony of five, "Board-certified," M.D.-Psychiatrists, given between 1974 and mid-1977. All M.D.'s agreed that Petitioner is not paranoid nor a paranoid personality; nor mentally ill; and, each declared Petitioner mentally able to practice his profession: Law.

The Order of the Iowa Supreme Court shows cognizance of the findings of the Special Committee appointed by Respondent to hear the matter and of Respondent's decision, App. of Ronwin, (A-4). The Iowa Bar counsel drew an equivalence of issue before the Iowa Supreme Court

and that before the Arizona Supreme Court; i.e., Petitioner's mental ability to practice law. The nine-member Iowa Supreme Court briefly and without qualification or dissent rejected said Special Committee's findings and the conclusion of the Arizona Supreme Court's decision in App. of Ronwin, (A-4).[1] In Iowa, a practicing attorney who becomes mentally incapacitated must be suspended until capacity returns, Iowa Code Anno.§610 App. Rule 118.16 (pertinent portion reproduced in the Appendix, A-13). That rule under which the Iowa Supreme Court Order in

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[1]Although, the Iowa Court had a practicing bar member before it and the Arizona Court had a bar applicant, the rule in Arizona applies the same standard to both categories, Vol. 17A Ariz. Rev. Stat., Rule 29(b)(8) and (9), Appendix (A-15).

this case was promulgated, (A-4), recognizes that mental incapacity to engage in the practice of law is a medical problem and that such infirmities are best left to medical experts to diagnose, treat and pronounce cure (A-13).

On the other hand, the Arizona Supreme Court has declared the existence of a new mental condition--one which need not "...rise to the level of medically recognized and categorized mental disorders," App. of Ronwin, supra, p. 317. That condition is alleged to be marked by "... long-standing personality traits [which] indicate an obvious inability to get along with authority figures under situations of minor stress and conflict," App. of Ronwin, supra, p.317. Another alleged trait is that of reacting with more than "normal repugnance" to anti-semitism, App. of Ronwin, supra, p.317,

footnote 1.

Without hearing; with denial of the right to confront adverse witnesses and denial of discovery; with total disregard of the testimony of five medical experts resulting from observations on Petitioner made over a 3 1/2 year period and with no obvious concern for the contrary view of the Iowa Supreme Court (A-4) or that of the eighteen practicing attorneys in Arizona who held that Petitioner was mentally able to practice law based on personal, professional association, Respondent insists that Petitioner continues to be afflicted with this newly declared mental condition (A-1) and Respondent denies Petitioner's application on the grounds that Petitioner has not shown a "substantial change."

The showing of a "substantial change"

is impossible. The symptoms of the new mental condition are vague and ambiguous. It may be that "not getting along" would justify the parties involved in refusing to associate with each other, but that cannot justify refusal to license otherwise capable and mentally sane persons. Nor does the Federal Constitution provide for a privileged class of "authority figures" who must be gotten along with--a euphemism for the prohibition of criticism of said "authority figures." The elements required for a "substantial change" cannot be discerned;nor,is it possible to determine from the decision in App. of Ronwin nor from the Orders of November 15, 1977 and March 9, 1978 (A-1;A-9), who is qualified to diagnose, treat and pronounce cure of the newly declared mental condition. Since the overwhelming medical testimony is shun-

ned by the Arizona Supreme Court, as is the stated requirement of Arizona Bar admission rule, Vol. 17A, Ariz. Rev. Stat., Rule 28(c)III.7 (A-11), the matter is left to unidentified or unclassified laymen, untrained in medical process and mental function, to decide whether or not the "non-medical" mental illness is present, how it is to be treated and when it is cured.

Respondent's alleged disease reduces to a mechanism whereby the First Amendment right to disagree with public officials free from reprisal against one's constitutional rights under the Fifth and Fourteenth Amendments to pursue a profession, Greene v. McElroy, 360 U.S. 474, 492, 79 S.Ct. 1400, 1411 (1959); Schware v. Board of Examiners of New Mexico, 353 U.S. 232, 238, 239, 77 S.Ct. 752, 756 (1957); Baird v. State Bar of

Arizona, 401 U.S. 1, 6, 91 S.Ct. 702, 706 (1971), are left, in the legal arena, to the whims of Bar officials.

Importance of the Question Presented

Because five other professions in Arizona require mental ability or competence for either initial licensing or renewal, but do not mandate a determination of the mental incapacity by psychiatric or medical examination, the standard of App. of Ronwin, carries over to these professions (see Appendix for identity of the applicable statutes, A-16). Other jurisdictions may be tempted to adopt the Arizona standard rather than that of Iowa, supra, with the effect that in such jurisdictions as in Arizona, non-psychiatrically trained laymen, in whatever profession, need only pin a label of "mentally unable" upon license applicants or practitioners which need not stand the test of medical

determination and confirmation, and by which label a person can be excluded from practicing or qualifying to practice a profession.

Respondent's theme also bodes fair to provide virtually unassailable cover for the exercise of racial, religious, ethnic or other invidious bigotry; elements of which impregnate instant cause.

This nation depends heavily upon professional skills and their interplay to maintain its global preeminence. Progress in technology, science and other professions, including law, means a willingness to step forward with new ideas and criticism. Respondent's thesis would chill all expressed thought as a condition for entrance to and continuence in the practice of a profession, except that thought approved by "authority figures."

This case exemplifies the result of Respondent's thesis: A citizen held perfectly sane by five, qualified psychiatrists and by eighteen, actively practicing Arizona attorneys based on close association, and by the Iowa Supreme Court (A-4), is told he is "mentally unable" and continues to be told that he has not shown a "substantial change" when no parameters are even remotely apparent by which the "non-medical" mental condition can be diagnosed, treated or by which a "substantial change" can be rationally measured.

The Arizona Supreme Court's position offends due process, equal protection of the law, freedom of speech and elemental fair play in violation of the First, Fifth and Fourteenth Amendment rights of Petitioner and threatens those same rights of numerous other Americans.

For the reasons discussed in the preceding, it is respectfully urged that this Court grant the Writ of Certiorari sought hereby.

Respectfully submitted,

By Edward Ronwin

May, 1978.

APPENDIX

IN THE SUPREME COURT

OF THE STATE OF ARIZONA

FILED: NOV.15,1977

In the Matter of)
) Supreme Court No.
EDWARD RONWIN) SB-52-5

O R D E R

Due to pending litigation brought by Edward Ronwin against members of this Court's Committee on Character and Fitness,

IT IS ORDERED relieving said members, G. David Gage, Chairman, Richard A. Segal, Vice Chairman, Robert D. Myers, Philip E. Toci, Richard Davis, Robert C. Moody and Ann Bowen, and any future members of said Committee, of any and all responsibility concerning Edward Ronwin's current and future applications for admission to the State Bar of Arizona.

FURTHER, IT IS ORDERED that said Committee and its members, present and fu-

ture, are prohibited from accepting for filing any further applications for membership in the State Bar of Arizona from Edward Ronwin. All such future applications by Edward Ronwin shall be filed directly with this Court for futher processing by a Special Committee.

As to the pending application of Edward Ronwin to be admitted to the State Bar of Arizona dated 10 October 1977, accompanied by affidavit of same date, there has been no showing of substantial change in the physical or mental condition of petitioner since the decision of this Court in In Re Ronwin, 113 Ariz. 357, 555 P.2d 315 (1976).

THEREFORE, IT IS ORDERED that the application of Edward Ronwin for admission to the State Bar of Arizona is DENIED.

DATED THIS 15th day of November,1977.

/s/ James Duke Cameron
JAMES DUKE CAMERON,
Chief Justice

Copies mailed this 16th

day of November, 1977 to:

Mr. Edward Ronwin

Mrs. Doris Odom

Committee on Character and Fitness

(all members):

G. David Gage, Chairman

Richard A. Segal, Vice Chairman

Robert D. Myers

Philip E. Toci

Richard Davis

Robert C. Moody

Ann Bowen

IN THE SUPREME COURT OF IOWA

IN THE MATTER OF EDWARD RONWIN, a practicing lawyer in the State of Iowa	FILED:Sep.14,1977 NO. 60678 ORDER

Pursuant to Court Rule 118.16, the Committee on Professional Ethics and Conduct of the Iowa State Bar Association filed a report concerning Edward Ronwin, who was admitted to the practice of law in this State on June 13, 1974. The report asks that he be suspended from practice because of mental incapacity.

A hearing was held before the full court on June 22, 1977, at which time both the Committee and Mr. Ronwin introduced evidence and were heard in oral argument.

The Committee does not claim Mr. Ronwin has been guilty of professional misconduct in this State since his admission to the bar. The request for his sus-

pension is based upon proceedings in the State of Arizona, where, after failing a first time, he was denied permission to take the bar examination again because the Arizona Special Committee on Examinations and Admissions found he was suffering from a "paranoid personality disorder" which rendered him "not mentally able to engage in the active and continuous practice of the law." This finding was made under Arizona Supreme Court Rule 28(c)IV(3), which imposes upon an applicant as a prerequisite to admission to the practice of law the burden of establishing he is mentally able to engage in active and continuous practice of law.

On Ronwin's appeal from this determination the Arizona Supreme Court also denied him permission to take the bar examination. See In the Matter of the Application of Edward Ronwin, 555 P.2d

315 (Ariz. 1976).

The request now before us asks that Mr. Ronwin be suspended under the following provision of our rule 118.16:

> "In event an attorney shall at any time in any jurisdiction be duly adjudicated a mentally incapacitated person, or an alcoholic, or a drug addict, or shall be committed to an institution or hospital for treatment thereof, the clerk of any court in Iowa in which any such adjudication or commitment is entered shall, within ten days thereafter, certify same to the clerk of this court.
>
> "Upon the filing of any such certificate or a like certificate from another jurisdiction this court may enter an order

suspending the license of such attorney to practice law in this state until further order of this court.***"

We find no cause for suspending Mr. Ronwin under our rule. The Arizona Special Committee on Examinations and Admissions is an administrative agency whose sole duty is to decide who is qualified for admission to the bar of that State. Its determination that an applicant should not be permitted to take the Arizona bar examination because of a personality disorder is not alone sufficient to permit a finding such applicant is a mentally incapacitated person under rule 118.16.nor to suspend one who has already been admitted to practice law in this State.

The request that Edward Ronwin be suspended from practice in this State is

therefore denied.

Dated at Des Moines, Iowa, this

14th day of September, 1977.

THE SUPREME COURT OF IOWA

/s/ C. Edwin Moore
C. Edwin Moore
Chief Justice

IN THE SUPREME COURT

OF THE STATE OF ARIZONA

FILED: MAR.9,1978
Supreme Court
No. SB 52-5

IN THE MATTER OF)
)
EDWARD RONWIN)
)

O R D E R

The Court having heard Oral Argument this date,

IT IS ORDERED: Motion for Rehearing = DENIED.

DATED this 9th day of March, 1978.

/s/ James Duke Cameron
JAMES DUKE CAMERON
Chief Justice

TO: Mr. Edward Ronwin
Box 2527
Scottsdale, Arizona 85252

State Bar of Arizona
234 North Central, Suite 858
Phoenix, Arizona 85004
Attn: Mrs. Doris Odom

G. David Gage, Chairman
Committee on Character and Fitness
234 North Central, Suite 858
Phoenix, Arizona 85004

The applicable provisions of the First, Fifth and Fourteenth Amendments:

First Amendment:

"Congress shall make no law... abridging the freedom of speech..."

Fifth Amendment:

"No person shall...be deprived of life, liberty, or property, without due process of law..."

Fourteenth Amendment:

"...No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

The Pertinent Parts of Arizona Bar Admission Rules:

Vol. 17A, Ariz. Rev. Stat., Rule 28(c) III.7:

"The following papers must accompany every application: ***

7. Certificate of a licensed physician that the applicant is mentally and physically able to engage in the active and continuous practice of law." ***

Vol. 17A, Ariz. Rev. Stat., Rule 28(c) IV.3:

"On the basis of a properly completed application timely filed the applicant will be entitled to sit for the bar examination.

"No applicant for admission to the State Bar of Arizona shall be recommended for admission by the Committee on Character and Fitness un-

less the Committee is satisfied:

* * *

"3. That he is mentally and physically able to engage in active and continuous practice of law;"

* * *

A pertinent portion of Iowa Supreme Court Rules:

Iowa Code Anno., §610 App. Rule 118.16:

* * *

"The filing of an application for reinstatement to active status by an attorney suspended due to disability shall constitute a waiver of any doctor-patient privilege with regard to any treatment of the petitioning attorney during the period of his or her disability. Such attorney shall also set forth in his or her application for reinstatement the name of every psychiatrist, psychologist, physician and hospital or any other institution by whom or in which the petitioning attorney has been examined or treated since his or her suspension due to dis-

ability, and shall also furnish to this Court written consent that any such psychiatrist, psychologist, physician and hospital or other institution by whom or in which the petitioner has been examined or treated as aforesaid may divulge any and all information and records requested by this Court or any Court-appointed medical experts."

* * *

Arizona Rules equating bar member and bar applicant mental and moral standards: Vol 17A, Ariz. Rev. Stat., Rule 29(b):

"Grounds for disbarment, suspension or censure of members shall be as follows:

* * *

"8. Failure to maintain such special mental and moral fitness as would have entitled the member to admission in the first instance.

"9. Any action or omission, either related or unrelated to the practice of law, indicating mental or moral unfitness to continue the practice of law."

Identity of professions (other than the law), and applicable statutes in Arizona, which require mental ability or competence for initial licensing or for continuence in practice, but do not mandate the determination of mental incapacity by psychiatric or medical examination:

Dentists: Ariz. Rev. Stat., §32-1263 (A)(3).

Medicine/Surgery: Ariz. Rev. Stat., §32-1451(A).

Nursing: Ariz. Rev. Stat., §32-1663(D)(5).

Osteopathic Physicians: Ariz. Rev. Stat., §32-1855(A).

Physical Therapists: Ariz. Rev. Stat., §32-2042(4).

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EDWARD RONWIN,

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THE SUPREME COURT OF
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Respondent.

JURISDICTION

Respondent does not question the jurisdiction of this Court to issue a writ of certiorari to the Supreme Court of Arizona in an appropriate case under Section 1257(3) of Title 28 U.S.C.

However, because petitioner has failed to comply with Rule 23(1)(f), Rules of the Supreme Court of the United States, by failing to specify the manner

in which the federal questions sought to be reviewed were raised in the lower court, the method of raising them, and the court's rulings, and by failing to make specific references to the places in the record where such matters appear, petitioner has failed to show that any federal questions were timely and properly raised so as to give this court jurisdiction to review the lower court's judgment on writ of certiorari.

QUESTION PRESENTED

Did the Arizona Supreme Court afford petitioner due process of law as guaranteed by the Fourteenth Amendment to the Constitution of the United States in the processing of his application for admission to the practice of law in the State of Arizona?

STATUTES AND RULES INVOLVED

Rule 28(a) and the applicable portion of Rule 28(c), Rules of the Arizona Supreme Court, are set forth in Appendix A to this brief.

STATEMENT OF THE CASE

Petitioner's attempts to gain admission to the practice of law in the State of Arizona have resulted in several judicial proceedings, reference to which is necessary to understand the background of the current petition.

Rule 28(c), Rules of the Supreme Court of Arizona, sets forth the requirements to be met by applicants for admission to the State Bar of Arizona. The rule requires that a Committee on Character and Fitness ("Committee"), appointed by the Supreme Court of Arizona, recommend an applicant for admission to the State Bar of Arizona only if the Committee is satisfied that

the applicant is "mentally and physically able to engage in active and continuous practice of law."

Petitioner sat for and failed Arizona's February, 1974 bar examination. In July, 1974, petitioner was informed by the Committee that the Committee had been unable to find petitioner mentally and physically able to engage in active and continuous practice of law and would therefore not grant him permission to sit for the July, 1974 bar examination. On September 24, 1974, the Arizona Supreme Court ordered the formation of a Special Committee on Examinations and Admissions ("Special Committee"), to conduct a formal hearing pursuant to Rule 28(c)(XII)(D), Rules of the Arizona Supreme Court, for the sole purpose of determining whether petitioner was mentally able to engage in active and

continuous practice of law.

Following the completion of substantial discovery, a two-day formal hearing was held before the Special Committee on January 6 and 7, 1975. Petitioner was represented by counsel. During that formal hearing, the Special Committee heard the testimony of seventeen witnesses, including petitioner, and received twenty exhibits in evidence. Included in the exhibits was deposition testimony of four additional witnesses. The witnesses included academic associates, law school professors, fellow law school students of petitioner, practicing attorneys for whom petitioner had done legal research, two psychiatrists, and one clinical psychologist. Each exhibit offered by petitioner was admitted into evidence and the testimony of each witness presented by petitioner was received.

Petitioner was given the opportunity, through able counsel,[1] to confront and cross-examine all witnesses.

On January 21, 1975, the Special Committee issued its findings, on the basis of which it concluded that petitioner was not mentally able to engage in active and continuous practice of law.

On January 28, 1975, petitioner filed a Petition for Review with the Arizona Supreme Court, which is the body responsible for finally determining questions of admission. (See Rule 28(a), Appendix A.) On July 6, 1976, in an unanimous decision, the Arizona Supreme Court, after making an independent analysis of the record of the hearing, affirmed the Special

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[1]John P. Frank, Esq., a member of the bar of this Court and a former member of this Court's Advisory Committee on Civil Rules.

Committee's conclusion and denied petitioner's application to be admitted as a member of the State Bar or, in the alternative, to take the bar examination. Application of Ronwin, 113 Ariz. 357, 555 P.2d 315 (1976). A copy of that decision is attached to this brief as Appendix B. In January, 1977, petitioner filed in this Court a Petition for a Writ of Certiorari to the Supreme Court of Arizona seeking review of the decision in Application of Ronwin, supra. This Court declined to accept jurisdiction of that petition on February 28, 1977. Ronwin v. The Committee on Examinations and Admissions of the Supreme Court of Arizona, 430 U.S. 907 (1977).

While review of the decision in Application of Ronwin, supra, was pending, petitioner commenced two actions in the United States District

Court for the District of Arizona, both based upon alleged violations of the Civil Rights Act of 1866, 42 U.S.C. § 1981 et seq. The first, Ronwin v. Daughton, No. CIV. 76-872 PHX-WPC, was instituted on November 26, 1976 and named as defendants the members of the Special Committee, the Dean and Associate Dean of Arizona State University College of Law, both of whom had testified on behalf of petitioner at the Special Committee's hearing, counsel for the State Bar of Arizona during the hearing, a psychologist who testified and petitioner's own lawyer, claiming that they had all conspired to "orchestrate" a sham proceeding. The second action, Ronwin v. Segal, No. CIV. 76-924 PHX-WPC, was filed December 13, 1976 and named as defendants the members of Arizona's Committee on Character and Fitness, who had found they were unable

to recommend petitioner for admission to the Arizona Bar following his application of August 30, 1976.[2] Summary judgment was entered in favor of all defendants in both actions and review of those decisions is currently pending in the Ninth Circuit Court of Appeals.[3]

On October 10, 1977, petitioner filed his seventh application for admission to the State Bar of Arizona. The members of the Committee on

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[2]Rule 28 of the Rules of the Supreme Court of the State of Arizona was amended on November 3, 1975, effective November 8, 1975. The primary change was the creation of two committees, i.e., one Committee on Examinations and one Committee on Character and Fitness, whereas prior to the amendment the function of both of the new committees had been performed by the Committee on Examinations and Admissions.

[3]See Ronwin v. Daughton, appeal docketed, No. 76-872, 9th Cir., March 25, 1977; and Ronwin v. Segal, appeal docketed, No. 77-2567, 9th Cir., July 5, 1977.

Character and Fitness, all of whom were named defendants in pending litigation with petitioner, requested direction from the Supreme Court of Arizona as to the proper course to follow. In response to that request, the Arizona Supreme Court issued its Order of November 15, 1977, directing that all future applications by petitioner were to be forwarded to the Arizona Supreme Court. The Court further ruled that, because petitioner had made no showing of substantial change in his mental condition since the Court's decision in Application of Ronwin, supra,, his application to the State Bar of Arizona would be denied. (Appendix to Petition, pp. A-1 -- A-3.)

Petitioner then requested and was granted leave to file a Motion for Rehearing before the Arizona Supreme Court. (Petition, p. 4.) After considering the memorandum submitted and

hearing oral argument, on March 9, 1978, the Arizona Supreme Court denied petitioner's Motion for Rehearing. (Appendix to Petition, p. A-9.)

ARGUMENT

A. The Arizona Supreme Court did not deny petitioner due process of law.

The only issue in this action is extremely narrow, applies to one limited situation, and does not warrant review by this Court on certiorari.

By its decision of July 6, 1976 in Application of Ronwin, supra, the Arizona Supreme Court held that petitioner was not mentally able to engage in the active and continuous practice of law, as required by Rule 28(c)(IV), Rules of the Arizona Supreme Court. By Order of November 15, 1977, the Arizona Supreme Court held that petitioner would again be denied admission to the State Bar of Arizona

because he had failed to show any substantial change in his mental condition since the Court's earlier decision. Isolated from collateral issues alluded to by petitioner, the question presented is thus whether the Arizona Supreme Court denied petitioner due process of law by refusing to accord him an evidentiary hearing because he failed to make a prima facie showing that a substantial change had occurred in his mental condition since the Court's decision of July 6, 1976.[4]

The thrust of petitioner's argument, which is set forth with less clarity than one might desire, seems to be that the Arizona Supreme Court was required by the principles of the Fourteenth Amendment to conduct an

---

[4]Indeed, it has been petitioner's contention throughout that there has been no change and that he has always been mentally able to practice law.

evidentiary hearing before denying petitioner admission to the State Bar of Arizona in November, 1977. Nothing in the Fourteenth Amendment or this Court's decisions interpreting that provision mandates such a conclusion.

This Court has emphasized on several occasions that due process of law does not require a hearing in every conceivable instance. Rather, because the very nature of due process requires flexible procedures, each set of circumstances must be examined to determine exactly "what process is due" in the particular context. Stanley v. Illinois, 405 U.S. 645 (1972). Only through an examination of particular circumstances can a determination be made as to what sort of hearing must be afforded. Mullane v. Central Hanover Bank & Trust Co., 339 U.S. 306 (1950).

The totality of circumstances

present in the instant case reveals careful attention by the Arizona Supreme Court to petitioner's right to be afforded an opportunity for an appropriate hearing. When the Arizona Supreme Court denied petitioner's Motion for Rehearing on the question of whether petitioner should be granted admission to the Arizona Bar, the Court had before it the written memorandum filed by petitioner in support of his motion. Petitioner was afforded an opportunity to present oral argument. Moreover, the Court considered not only petitioner's most recent application for admission to the bar, but also the entire record of the earlier proceedings. That record included the transcript of the two-day evidentiary hearing held before the Special Committee, upon which the Court's initial determination that petitioner was not mentally able to

engage in the practice of law had been made.

Equally important, the Court did not hold that petitioner would never be entitled to another evidentiary hearing. The Court simply required petitioner to establish that a substantial change had occurred in his mental condition since the Court's earlier ruling that petitioner's mental state was such that he should not be admitted to practice law in the State of Arizona.

The notion that a applicant for admission to practice law has the burden of establishing that he is of "good moral character" or "mentally able to practice law" is nothing new and, in fact, is a burden imposed by all states. Equally accepted is the principle that, once an applicant or practicing attorney has been found deficient in those qualities which a state requires of its

practitioners, the burden is placed upon that person to show a change in circumstances. See, e.g., Matter of Braverman, 549 F.2d 913 (4th Cir. 1976); In re Alker, 307 F.2d 881 (3d Cir.), cert. denied, 371 U.S. 923 (1962); Levenson v. Mills, 294 F.2d 397 (1st Cir. 1961), cert. denied, 368 U.S. 954 (1962). The principles of due process do not require, and practical considerations make impossible, the holding of a hearing which would simply revisit matters previously heard and considered by the Arizona Supreme Court. Only if petitioner can show some change in circumstances should that Court be required to convene another hearing.[5]

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[5]Petitioner apparently has concluded that the Iowa Supreme Court's Order of September 14, 1977 [Appendix to Petition, pp. A-4 -- A-8], denying a request to suspend petitioner from practice in Iowa, provides evidence of a change in his mental condition. However, that Order simply states that the

In refusing petitioner admission to the State Bar of Arizona, the State Court was simply exercising its recognized freedom to guage on a case-by-case basis the fitness of a particular applicant to practice law. In re Griffiths, 413 U.S. 717 (1973). States unquestionably retain authority to require high standards of proficiency, including "good moral character" or "mental ability," of those applicants for membership in state bar associations. As this Court recognized in Schware v. Board of Bar Examiners of the State of New Mexico, 353 U.S. 232 (1957),

> [t]o a wide and deep extent, the law depends upon the

(Footnote 5 cont'd.)

Arizona proceedings did not constitute an "adjudication of mental incapacity," the standard for suspending an attorney from practice in Iowa. Respondent concurs in Iowa's interpretation of its rule.

> disciplined standards of the profession and belief in the integrity of the courts. We cannot fail to accord such confidence to the state process, and we must attribute to its courts the exercise of a fair and not a biased judgment in passing upon the applications of those seeking entry into the profession. Id. at 249.

Unless a state's refusal to grant an applicant admission to its bar is based upon wholly arbitrary standards or upon considerations that offend the dictates of reason, such decisions must be left to the individual state courts.

> Especially in this realm, it is not our business to substitute our judgment for the State's judgment--for it is the State in all the panoply of its powers that is under review when the action of its Supreme Court is under review. Id. at 248.

B. Petitioner has defined no substantial federal question.

As was discussed above, petitioner has failed to identify when and how any

federal questions of which review is sought were raised in the Arizona Court. Assuming, however, that the questions were properly raised and identified, petitioner has made no showing that the issue presented is of substantial importance. No suggestion has been made that Arizona's procedure for determining questions of admission discriminates on the basis of an inherently suspect classification [In re Griffiths, supra]; improperly inquires into an applicant's views and beliefs [Baird v. State Bar of Arizona, 401 U.S. 1 (1971)]; denies admission because of an applicant's refusal to divulge information protected by the First Amendment [Application of Stolar, 401 U.S. 23 (1971)]; or applies invalid statutes and rules. [Law Students Civil Rights Research Council, Inc. v. Wadmond, 401 U.S. 154 (1971)].

The most that can be said for

petitioner's position is that he believes the hearing process afforded him produced an unfair result. Even if that were true, the fact that Arizona's rules pertaining to bar admission may result in incidental individual inequality does not render them offensive to the Fourteenth Amendment. Martin v. Walton, 368 U.S. 25 (1961).

Petitioner argues (Petition at 12-13) that the question presented is important because Arizona applies, in one form or another, a like standard of mental ability to other professions. He suggests that all of these regulations suffer from the same vice: a finding of mental inability may be made without a differential medical diagnosis of a mental disease. While we agree that a number of statutory grounds for occupational disqualification are framed in language similar to the one here

under scrutiny,[6] the mere fact that they do not mandate the uncontradicted testimony of a psychiatrist does not render them constitutionally defective. Courts commonly allow lay testimony concerning mental capacity on the issue of criminal responsibility. See, e.g., Mason v. United States, 402 F.2d 732 (8th Cir. 1968), cert. denied, 394 U.S. 950 (1969). Surely a finding of mental inability to pursue a profession ought not to require a stricter standard of proof.

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[6] Contrary to petitioner's appendix reference (A-16), the standard for physical therapists is quite precise: a declaration of insanity by a court of competent jurisdiction. A.R.S. § 32-2042(4).

C. Consideration of petitioner's alleged denial of equal protection of the law and of freedom of expression under the First Amendment is barred by the doctrine of res judicata.

Petitioner refers intermittently to claimed denials of his right to freedom of expression and to equal protection. Consideration of such issues is clearly barred by the decision in Application of Ronwin, 113 Ariz. 357, 555 P.2d 315 (1976), cert. denied, 430 U.S. 907 (1977).

In his previous petition for a writ of certiorari in Ronwin v. The Committee on Examinations and Admissions of the Supreme Court of the State of Arizona, supra, the primary "Question Presented" was defined as follows:

> 1. Does the "Doctrine of Personality Deficiencies" (or, "Personality Disorders") promulgated by the Supreme Court of Arizona chill

> Petitioner's rights under the First, Fifth and Fourteenth Amendments, U.S. Constitution, and is said doctrine so vague, ambiguous, indeterminate and afflicted with overbreath [sic] as to be unconstitutional? Further, can said Doctrine be constitutionally applied prospectively to bar Petitioner from admission to the Arizona Bar at any future time in his life as the Arizona Supreme Court has done?
> Petition for a Writ of Certiorari, Ronwin v. The Committee on Examinations and Admissions of the Supreme Court of the State of Arizona, No. 76-953, at 2.

In this action, petitioner has defined the "Question Presented" as follows:

> Are the criteria by which Respondent determines mental ability to practice law inconsistent with Petitioner's right to due process, equal protection of the law and to freedom of expression under the First, Fifth and Fourteenth Amendments to the United States Constitution?
> Petition, at 2.

This would appear to be a textbook case for the application of the doctrine of res judicata. Sea-Land Services, Inc. v. Gaudet, 414 U.S. 573 (1974).

Because petitioner improperly named the Committee on Examinations and Admissions of the Supreme Court of Arizona as respondent in his earlier petition, he may seek to avoid the bar of res judicata by claiming the same parties are not involved in this petition. But the identity of parties required for application of the doctrine of res judicata is not merely a matter of form, but one of substance, and the fact that the parties in two actions are not precisely identical is not necessarily fatal to the application of that doctrine. Sunshine Anthracite Coal Co. v. Adkins, 310 U.S. 381 (1940). Because the Arizona Supreme Court is the only body which can deny any person admission to the Arizona Bar, identity of parties is sufficient to evoke application of the doctrine.

Finally, petitioner's attempt to

relitigate his claimed denial of the protection of the Bill of Rights is barred by collateral estoppel. Ashe v. Swenson, 397 U.S. 436 (1970).

CONCLUSION

The petition for writ of certiorari should be denied.

Respectfully submitted,

Philip E. von Ammon

June, 1978

APPENDIX A

Rules 28(a) and 28(c) IV, Rules
Of the Supreme Court of Arizona

Rule 28. Examination and Admission

28(a) Committees on examinations and admissions; powers and duties. The examination and admission of applicants for membership in the State Bar of Arizona shall conform to this Rule. For such purposes two committees shall be constituted. One Committee shall be the Committee on Examinations. The other Committee shall consist of seven active members of the State Bar appointed by the Court upon the recommendation of the Board of Governors of the State Bar which shall recommend at least three members of the State Bar for each appointment to be made. Members of the two Committees shall serve for seven year terms. In the case of the Committee on Character and Fitness now being separately established the seven initial appointments shall be for terms of seven, six, five, four, three, two and one year respectively. Thereafter, upon the expiration of a member's term, the Court shall appoint a new member to serve for a term of seven years. As to each Committee, in the event of a resignation or inability of a committee member to serve, the Court shall appoint another person to serve the unexpired term. The Committee on Examinations shall examine applicants and advise this Court and the Committee on Character and Fitness of those who have passed the examination for admission to the State Bar of Arizona. The Committee on Character and Fitness shall recommend to this Court for admission to the State Bar of Arizona those individuals who,

having passed the examination for admission to the State Bar of Arizona, are deemed by the Committee to be qualified on the basis of character and fitness. The Court will then consider the recommendations and either grant or deny admission.

. . . .

28(c) Rules governing admission of applicants to the State Bar of Arizona.

. . . .

IV. APPLICANT REQUIREMENTS AND QUALIFICATIONS

On the basis of a properly completed application timely filed the applicant will be entitled to sit for the bar examination.

No applicant for admission to the State Bar of Arizona shall be recommended for admission by the Committee on Character and Fitness unless the Committee is satisfied:

1. That the applicant is or at the time of the examination will be over the age of twenty-one (21) years;

2. That he is of good moral character;

3. That he is mentally and physically able to engage in active and continuous practice of law;

4. That he is a graduate of a law school provisionally or fully approved by the American Bar Association at the time of

his graduation; provided that this requirement shall not apply to an applicant who has been actively engaged in the practice of law in some other state or states for at least five (5) years of the last seven (7) years prior to his application for admission to practice in Arizona.

5. That, if admitted to practice in any other state or states, he is in good standing in every such state.

The Committee on Character and Fitness may provide for early filing of an intention to seek admission to the State Bar of Arizona on the part of Arizona law students, after completion of their first year at the University of Arizona College of Law or Arizona State University College of Law, to enable expeditious inquiry into the character and fitness of the applicant and to facilitate the giving of advice and counsel on issues relating to character and fitness.

The Committee on Character and Fitness should endeavor to complete its inquiries on character and fitness so as to be in a position to recommend for or against a successful examinee's admission to the State Bar of Arizona no later than the time the results from the bar examination are available. In extraordinary cases more extended time for inquiry and formulation of a recommendation may be required.

APPENDIX B

IN THE SUPREME COURT OF THE STATE OF ARIZONA

In Banc

IN THE MATTER OF APPLICATION OF EDWARD RONWIN TO BE ADMITTED AS A MEMBER OF THE STATE BAR OF ARIZONA	)	FILED July 6, 1976 Clifford H. Ward Clerk Supreme Court No. SB-52-2

APPLICATION FOR ADMISSION TO STATE BAR OF ARIZONA DENIED: PERMISSION TO TAKE BAR EXAMINATION DENIED

GORDON, Justice:

The applicant, Edward Ronwin, filed this petition for review after a Special Committee on Examinations and Admissions appointed by this Court refused to recommend him for admission to the State Bar of Arizona on the ground that he "is not mentally able to engage in the active and continuous practice of the law."

Ronwin graduated from the Arizona State University College of Law in January of 1974. He took and failed the bar examination administered the following month. A petition for review of the grading of the examination papers filed with the Committee on Examinations and Admissions was denied. A similar petition subsequently filed in this

Court was also denied.

On July 22, 1974, eight days before he was to retake the exam, the Committee on Examinations and Admissions informed Ronwin that he had not qualified for permission to take the test "in that the Committee is unable to make the requisite finding that you are mentally and physically able to engage in [the] active and continuous practice of law." A petition for a Writ of Special Action was filed by the applicant with this Court the next day. We conducted a hearing and declined to take jurisdiction of the matter on July 30th.

On September 24, 1974, an order was entered by this Court appointing a Special Committee to conduct a formal hearing under Rule 28(c) XII D of the Rules of the Supreme Court for the sole purpose of determining whether Ronwin was mentally able to engage in the active and continuous practice of law. Following substantial discovery the hearing was held on January 6 and 7, 1975. On January 21st the seven member Committee issued the following findings:

> "[T]he applicant suffers from an established personality disorder of a character and pattern which will persist in the event the applicant is admitted to the practice of law which
>
> "(a) Causes him to be unreasonably suspicious that bad motives and intentions activate persons with whom he comes into contact and to unreasonably imagine that he is the object of unfair persecution by such persons and to act upon such imagined wrongs as if in fact sustained by known facts;

"(b) Causes him to make irresponsible and highly derogatory untrue public accusations and charges against persons in responsible positions which he knows or reasonably should know are without any factual basis or support;

"(c) Causes him to bring and pursue with great persistence groundless claims in court proceedings and otherwise even though he knows or should reasonably know such claims to be groundless, and that thereby others will be subjected to needless expense and concerns."

The Committee concluded that "because of this personality disorder applicant would probably be unable to properly represent and serve the interests of his clients * * * [and] will probably * * * bring and prosecute groundless claims and subject clients, parties, the Court and adversary counsel to groundless charges of misconduct and impropriety if his view of the merits of the claims he presented should be vigorously opposed and be found to be without merit by the Court."

Ronwin filed a Petition for Review of the Committee's findings in this Court on January 28, 1975, placing the case in its present posture. The applicant's subsequent motion seeking an order admitting him to the Bar or, in the alternative, permitting him to take the examination pending a determination of his petition for review was denied.

The practice of law is not a privilege but a right, conditioned solely upon the requirement that a person have the necessary mental, physical and moral

qualifications. Application of Klahr, 102 Ariz. 429, 433 P.2d 977 (1967); Application of Burke, 87 Ariz. 336, 351 P.2d 169 (1960). This right "is neither greater nor less than the right to engage in other occupations, businesses or trades, for the right to seek and retain employment is shared by all equally and to be equal must be upon the same conditions." Application of Levine, 97 Ariz. 88, 397 P.2d 205 (1964). In Arizona, as a prerequisite to the admission to practice an applicant has the burden of establishing as required by Rule 28(c) IV (3) of the Rules of the Supreme Court that he is "mentally * * * able to engage in active and continuous practice of law." See Application of Courtney, 83 Ariz. 231, 319 P.2d 991 (1957). If the Committee believed in this case that there was doubt as to Ronwin's mental qualifications "its plain duty was to refuse to certify his name to this Court for admission, for the ultimate responsibility for the admittance to the practice of law lies in the members of the Court." Application of Levine, supra. See Application of Walker, 112 Ariz. 134, 539 P.2d 891 (1975). The Committee's task is often a difficult one as some of the concepts embodied in the Rules escape definition in the abstract. Because of this a petition for review concerning such a matter "must be judged on its own merits, and an ad hoc determination in each instance must be made by the court." Application of Klahr, supra.

After a careful review of the record we have concluded that Ronwin has failed to demonstrate that he is mentally able to engage in the active and continuous

practice of law. To survey in this opinion the allegations or criticisms made by various witnesses or the psychiatric and psychological testimony would unnecessarily inject comment on the character or reputation of persons other than the individual who is the focus of this case and would serve to heighten the extreme emotion with which the applicant and others view several of the incidents which were highlighted at the committee hearings. It would also discourage in the future the sort of candid and personal testimony which many people are naturally reluctant to give but which is necessary in order to made a competent evaluation of an applicant's qualifications.

In summary, there is significant expert testimony in the record to indicate that Ronwin has a "paranoid personality" which is characterized by hypersensitivity, rigidity, unwarranted suspicion, excessive self-importance and a tendency to blame others and ascribe evil motives to them. The ominous ramifications of his personality disorder can be seen in the testimony of two professors which indicates that on different occasions he became enraged during discussions of academic matters and made serious threats of physical violence toward certain individuals and, in two cases, their wives. The record reveals a continuing inability by the applicant to maintain normal interpersonal relationships with sharp conflict rather than cooperation a common result. This situation is particularly aggravated where Ronwin is the subject of criticism or views himself as the victim of an imagined or real injustice. While he may excel in other endeavors,

he appears mentally unable to reasonably deal with the type of social interaction involved in dealing with clients, other members of the Bar and the public.

We believe that it is imperative that the term "mentally * * * able to engage in active and continuous practice of law" be construed to exclude persons whose long-standing personality traits indicate an obvious inability to get along with authority figures under situations of minor stress and conflict, whether or not these personality deficiencies rise to the level of medically recognized and categorized mental disorders.

The applicant's "irresponsible and highly derogatory untrue public accusations and charges against persons in responsible positions" referred to in ground "(b)" were mainly directed at administration officials at Arizona State University and appear to have resulted from an honest although probably misguided opinion of who was reponsible for harassment he endured while a law student.[1] We must be

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1. Graffiti such as "Rabbi Ronwin", "Ronwin is a Jew", "Jewish Dining Room" (on the bathroom stall) and other ethnic slurs were written on walls and notices at the law school. There is no indication in the record whether Ronwin is Jewish. The applicant's hypersensitivity and aggressiveness aggravated the normal repugnance an individual would feel as the brunt of such remarks. In a letter to the President of the

cautious not to punish an individual for utterances which fall within the protections of the First and Fourteenth Amendments. See Pickering v. Board of Education, 391 U.S. 563, 88 S.Ct. 1731,

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University, Ronwin accused the dean of the law school of expressing an "attitude of malice" toward him as demonstrated by his failure to stop the graffiti and stated "[t]he activities of [the] Dean * * * sum to an astonishing and deliberate nonfeasance and malfeasance and were directly responsible for both my troubles at the school, which continued virtually unabated during my entire association, and for much of my current problems with the Bar." Other critical comments in the letter were directed toward a resident professor, two visiting professors and an acting dean of the law school during one semester that the permanent dean was on a sabbatical. Ronwin accused the acting dean of deliberately soliciting false memoranda containing derogatory comments concerning the applicant and of bringing "the memoranda to the Committee's attention with the object of destroying me or my chances to become a member of the Bar because of the boundless malice with which he operates * * *." In connection with a theft from his locker, the applicant stated the acting dean "used his office to protect a felon and effectively halt a criminal investigation because of that hatred [for me]." Ronwin demanded that both the acting dean and a professor be dismissed from the faculty.

20 L.Ed.2d 811 (1968); New York Times Company v. Sullivan, 376 U.S 254, 84 S.Ct. 710, 11 L.Ed.2d 686 (1964); Application of Levine supra. However, the relationship of these accusations and charges to his feelings of persecution as set forth in paragraph (a) of the Committee's Findings is apparent to anyone who reads the full transcript of the proceedings in this matter.

We do not agree with ground "(c)" of the Committee's Findings, that Ronwin has in the past brought "with great persistence groundless claims in court proceedings and otherwise." We hesitate to fault the applicant for resorting to the legal system to express his grievances where, as in this case, there is credible evidence that the actions were brought with a good faith belief in their merit.[2]

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2. At the hearing the applicant defended the filing of two lawsuits. The first was filed in 1969 with the California Fair Employment Practice Commission while the applicant was a lecturer at Fresno State College. Ronwin alleged he was a victim of reverse discrimination in hiring practices at the institution. The matter was eventually terminated when a default judgment was entered against the applicant. The second lawsuit was filed in 1972 against seven fellow students Ronwin felt were responsible for the graffiti and verbal harassment he was receiving at the law school. At the hearing the applicant gave a reason why each defendant was included in the suit.

Having agreed with the Special Committee after our independent analysis of the record that Ronwin is not mentally able under Rule 28(c) IV of the Rules of the Supreme Court to engage in the active and continuous practice of law, it is ordered that his application to be admitted as a member of the State Bar or, in the alternative, to take the bar examination, is denied.

STRUCKMEYER, V. C. J., HAYS, and WILLIAM A. HOLOHAN, JJ., and HENRY S. STEVENS, Judge, Retired concurring.

Note: The Honorable JAMES DUKE CAMERON, Chief Justice, did not participate in the determination of this matter and the Honorable HENRY S. STEVENS, now a retired Judge of the Court of Appeals, was called to sit in this matter.

Supreme Court, U. S.
FILED
JUL 31 1978
MICHAEL RODAK, JR., CLERK

IN THE

SUPREME COURT OF THE UNITED STATES

October Term, 1977

No. 77-1692

EDWARD RONWIN, Petitioner,

v.

THE SUPREME COURT OF
THE STATE OF ARIZONA,
Respondent.

REPLY TO BRIEF IN OPPOSITION TO PETITION FOR A WRIT OF CERTIORARI TO THE SUPREME COURT OF THE STATE OF ARIZONA

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ARGUMENT

I. Specific Rebuttal

Rather than demonstrate why the question presented in Petition should not be decided by this Court, (see speech by Chief Justice Vinson before the Amer. Bar Asso., Sept. 7, 1949; 69 S.Ct. v,vi),

the "Brief in Opposition..," (hereinafter, "Response") represents an effort to brief and argue the merits of the case. Despite the diversionary potential, as measured by Chief Justice Vinson's comments, clarification of various matters raised in Response is appropriate.

Response attempts to erect a distinction between the question before the Iowa Supreme Court with respect to Petitioner's mental capacity or ability and that before the Arizona Supreme Court, (Footnote 5, pp.16,17, Response). However, the record made before the Iowa Supreme Court, which was in evidence before the Arizona Supreme Court on March 9, 1978, reveals that counsel for the Iowa Bar's Committee on Professional Ethics and Conduct drew an exact identity of issue before the two Supreme Courts;Transcript of Proceedings Before Iowa Supreme Court,

June 22, 1977, p. 5, lines 17-22:

> "...That Court [Arizona Supreme Court] then found or, within our Rule, adjudicated that Mr. Ronwin is not mentally fit to practice law and that is the same as saying within the purview of 118.16 [Iowa's Rule] that he is incapacitated mentally from engaging in the practice of law."

Clearly, the nine Justices of the Supreme Court of Iowa and the five Justices of the Supreme Court of Arizona had an identity of issue and of record before each other; and, each Court came to a unanimous, but opposite, decision,(Petition, Appendix, pp. A-1 to A-3; A-9; and pp. A-4 to A-8).

The technique of "advocacy by reputation" in the form of the naming of a former counsel to Petitioner who is person-

ally known to one or more Justices of this Court and who is now an adversary in litigation with Petitioner, (Footnote 1, p. 6; and p.8, lines 4-6 and line 15, Response) is grossly offensive. Suffice at this juncture to say that in the record in this cause there are matters which arose in Ronwin v. Daughton, Civ. No. 76-872 PHX, whose content concerning said counsel's behavior may cause this Court to seriously consider the disbarment of the named counsel from the Bar of this Court. Petitioner's charges against said counsel were labelled "reckless" by the Iowa Bar counsel; however, Petitioner placed the above-mentioned matter from the above-cited U.S. District Court case before the Iowa Supreme Court and argued in rebuttal of the "reckless" label. Apparently, the charges appeared credible to the Iowa Supreme Court.

Equally offensive is the attempt to impart merit to the positions of Petitioner's adversaries in the aforesaid U.S. District Court case by reciting the number and positions of the defendants, (erroneously, since only one member of the Special Committee was sued), (p. 7, line 19 to p.8, line 17, Response). No civilized, legal process judges the merits of a case by concern for either the numbers or the social, political or economic positions of the litigants.

Candor would require that this Court have been informed in Response that in Ronwin v. Segal, Civ. No. 76-924 PHX, (p. 8, line 17 to p.9, line 3, Response), the committee's finding was made without any hearing despite demand for same; and without any opportunity to demonstrate that Petitioner was and is mentally able to practice law.

The hearing of oral argument on March 9, 1978 before Respondent (p.10, line 22 to p. 11, line 5, Response), was a hearing at which Petitioner was denied the right to take depositions of witnesses or to call and cross-examine witnesses. Notably, Respondent refused to allow Petitioner to depose the only "expert" who earlier testified against Petitioner and who, according to a Judge of the Superior Court of Arizona, was a patient in a mental hospital within a short time after he purportedly examined Petitioner. No reason for the denial of the opportunity to explore said "expert's" state of mind when he examined Petitioner has been given by Respondent; nor, for the refusal to allow Petitioner to call and examine witness on Petitioner's present state of mind.

The standard for physical therapists

in Arizona is not precise contrary to Response (Footnote 6, p. 21), since an Arizona "court of competent jurisdiction," A.R.S.§32-2042(4), using the non-medically recognized mental illness standard of the Arizona Supreme Court, which led to this case, would raise the very same issue as presented herein. That is most certainly the case for the other professions cited in Petition which do not even call for the intercession of a court, (Appendix, Petition, p.A-16); and, for similar procedures in other States which might adopt Respondent's standard.

The argument on res judicata, (pp.22-25, Response), is tantamount to insisting that once a party is declared "mentally unable" he remains in that state for life. The corollary would require life detention of all persons committed to mental institutions. The theme is

medieval.

II. Why Response Fails of its Function

To effectively oppose the "Importance of the Question Presented, (pp.12-15, Petition), it is suggested that Response should have shown or provided guidance on:

1. The constitutional and other authority which creates a special class of "authority figures" who must be "gotten along with;" and, on the substance of such harmony.

2. The evidence which validates the existence of a non-medically recognized mental disease; and, on the known symptoms of same. In addition, the parameters and instruments of diagnosis and methods of treatment should have been revealed. Also, some detail should have been provided on what would enable an "expert" or qualified person to pro-

nounce a cure; and, indeed, some description of the type of person who is adequately trained to diagnose, treat and pronounce cure of the extraordinary mental malady. Equally important, Response gives no information on the essence and constituents of the "substantial change" which Respondent continues to assert has not been shown by Petitioner, (Petition, Appendix, pp. A-1 to A-3).

3. How Petitioner can be held to be mentally unable by Respondent in the face of the testimony and reports of five psychiatrists who find Petitioner perfectly able and free of mental illness. Moreover, Response should have explained why the five psychiatrists and experts in medico-mental process are less able than laymen to recognize any mental illness whether or not "medically recognized."

4. How eighteen practicing attorneys in Arizona could be so in error as to not recognize the non-medically recognized mental disease allegedly afflicting Petitioner.

5. How the nine, experienced Justices of the Iowa Supreme Court, with every bit of the same record before them, that the Arizona Supreme Court had on March 9, 1978, could be so mistaken,too.

6. Why the Arizona Supreme Court standard of the non-medically recognized mental illness cannot be employed to provide potent cover for the exercise of religious, racial, ethnic or other invidious bigotry.

7. Why the standard applied by Respondent in this cause cannot be extended to other professions and trades requiring mental ability for licensing in Arizona; or, to the securing and holding of

general, private and government employment even if no specific mental qualification is required; and, why Respondent's standard cannot find application in other States.

Response is silent on the above matters and thereby has not demonstrated a lack of importance in the question presented by Petitioner. The concept of a non-medically recognized mental disease or disorder which Respondent has adopted must be rejected for, in the very words of the Response, it prima facie, (p.18, lines 2-5):

> "...is based upon wholly arbitrary [and utterly undefined] standards [and] upon considerations that offend the dictates of reason..."

It is common knowledge that our language has been abundantly enriched by

many technical terms among which are such words and expressions as "paranoid," "paranoid personality,"(not at all equatable with paranoia), "psychotic," "neurotic," etc. The laymen readily adopts these terms to enliven his speech. When, as the expert testimony in the record below shows, even the experts are by no means unanimous on the meaning or utility of terms such as "paranoid personality," can one reasonably expect precision in the use of medico-mental terms by the laymen? Therefore, to allow Respondent's concept of a non-medically recognized mental disease or disorder to stand would create a nightmere of abuse whereby numerous persons in Arizona and in States adopting Respondent's theme, can and will be deprived of their constitutional prerogatives at the whim of medically untutored laymen.

For the reasons given hereinabove and in the Petition, it is respectfully urged that the Writ of Certiorari be granted.

Respectfully submitted,

By Edward Ronwin

July, 1978